

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAHUL MEWAWALLA,

Plaintiff,

v.

STANLEY C. MIDDLEMAN, et al.,

Defendants.

Case No. 21-cv-09700-EMC

**ORDER ON REVISING
ADMINISTRATIVE MOTIONS TO
FILE UNDER SEAL**

The parties have filed several administrative motions to file under seal. *See* Docket Nos. 131, 132, 135, and 137. In general, the parties’ proposals are far too broad. *See* L.R 79-5(f)(6) (“overly broad requests to seal may result in the denial of the motion”).

Motions for an order concerning administrative relief “must set forth specifically ... the reasons supporting the motion.” L.R. 7-11(a). Pursuant to the local rules, a motion to file under seal must include “a specific statement of the applicable legal standard and the reasons for keeping a document under seal, including an explanation of: (i) the legitimate private or public interests that warrant sealing; (ii) the injury that will result if sealing is denied; and (iii) why a less restrictive alternative to sealing is not sufficient.” L.R. 79-5(c) (emphasis in original). For dispositive motions and judicial records attached to a dispositive motion, a party seeking to seal a document “must ‘articulate *compelling* reasons supported by specific factual findings’ to warrant redacting. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (emphasis added).¹ Information may be sealed only if it represents confidential “business information that might harm a litigant’s competitive standing” or a “trade secret[.]” *In re*

¹ For non-dispositive motions there is a “good cause” standard. *Kamakana*, 447 F.3d at 1180.

1 *Electronic Arts, Inc.*, 298 Fed.Appx. 568, 569 (9th Cir. 2008). However, “[s]imply mentioning a
2 general category of privilege, without any further elaboration or any specific linkage with the
3 documents, does not satisfy the burden.” *Kamakana*, 447 F.3d at 1184.

4 Here, for example, Defendants moved to seal eight entire exhibits to its motion for
5 summary judgment. *See* Docket No. 132; *see also* L.R. 79-5(a) (“A party must ... minimize the
6 number of documents filed under seal, and avoid wherever possible sealing entire documents (as
7 opposed to merely redacting the truly sensitive information in a document)”). Redactions must be
8 “narrowly tailored.” *Id.* Defendants provided only general reasons for sealing these exhibits,
9 some of which include key depositions and internal emails. For example, in Exhibit II, it states
10 “Xpanse leadership will propose a one-time funding proposal to be presented to the Board of
11 Directors of Xpanse (“Board”) by the end of Q1 2021 to cover Xpanse operations for any amounts
12 required above and beyond the funding amounts in items 1-3 described above.” Since there are no
13 figures or amounts stated, it is difficult to see how this constitutes either confidential business
14 information or a trade secret. Defendants state that this is confidential “forecasting, business
15 planning, budgeting, funding and liquidity” which is vague and does not meet the “compelling
16 reasons” standard. As another example, in Exhibit JJ, internal communications indicate that one
17 Defendant stated “getting a little concerned about Rahul just want to tell you about some of it and
18 see what you think” and another Defendant replied “sounds good we just need to make sure we
19 have the right controls and reporting in place and can drive accountability.” The fact that this
20 exchange puts Defendants in an unfavorable light does not satisfy the “compelling reasons”
21 standard. The proposed redactions are far from being narrowly tailored.

22 Thus, for Docket Nos. 131, 132, 135, and 137, the moving party must re-submit their
23 compliant administrative motions to file under seal by **Friday, June 7, 2024**. The parties must
24 narrow their requests for redactions and provide declarations establishing why each redaction is
25 within the meaning of the local rule. Failure to comply with this order may result in complete
26 denial of the motion.

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28 **IT IS SO ORDERED.**

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Dated: May 31, 2024



EDWARD M. CHEN
United States District Judge

United States District Court
Northern District of California